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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,246	01/14/2002	Kouichi Takamine	50023-162	9422

7590 12/11/2007  
McDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER
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ELISCA, PIERRE E

ART UNIT	PAPER NUMBER
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3621

MAIL DATE	DELIVERY MODE
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12/11/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/043,246

Applicant(s)

TAKAMINE, KOUICHI

Examiner

Pierre E. Elisca

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,9,10 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,9,10 and 14-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This communication is in response to Applicant's RCE filed on 10/03/2007.
2. Claims 1, 2, 5, 9, 10, and 14-17 are currently pending.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 5, 9, 10, and 14-17 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Stefik U.S. Pat. No. 5,629,980 in view of Nagai et al U.S. Pat. No. 6,754,442.

As per claims 1, 2, 5, 9, 10, and 14-17 substantially discloses in fig 15 as well as associated text, a digital rights management system wherein a user purchases the rights to render a digital work based on a predetermined amount of time. See at least items 1512-1515. Stefik also discloses adding sets of rights i.e. extending the time that a digital work may be rendered. See at least fig 15, item 1509 as well as related text. Stefik inherently discloses a counter that measures time elapsed, and preventing further use of a paid file when the time allotted for use runs out.

Stefik fails to explicitly disclose Applicant's newly added limitation wherein said storing information containing the output time management storage medium as an output time

management program and the object data. However, it is the Examiner believes that Nagai discloses Applicant's newly added limitations wherein said a method/apparatus for recording/reproducing digital data. The recording medium or external factor or medium for reproducing from said disk-like recording medium during the time  $t_p$  fails to reach the capacity of the data signal and the audio signal continuously output during the time  $t$ . Therefore, the external factor of Nagai is interpreted as an external medium as an output time  $t_p$  (see., Nagai, abstract, claim 7). Accordingly, it would have been obvious to a person of ordinary skill in the art the time the invention was made to modify the rights management of Stefik by including the limitation detailed above as taught by Nagai because this would control the time duration of the medium for recording.

#### RESPONSE TO ARGUMENTS

5. Applicant's arguments with respect to claims 1, 2, 5, 9, 10 and 14-17 have been fully considered but they are not persuasive.

#### REMARKS

6. In regard to Applicant's arguments filed on 10/03/2007, Applicant argues that:

a. Nagai's external factor cannot be equated with an external medium such as a removably inserted memory card in the output time management apparatus. The Examiner respectfully disagrees with Applicant's characterization of the prior art. Nagai clearly discloses a method/apparatus for recording/reproducing digital data. The recording medium or external factor or medium for reproducing from said disk-like

recording medium during the time  $t_p$  fails to reach the capacity of the data signal and the audio signal continuously output during the time  $t$ . Therefore, the external factor of Nagai is interpreted as an external medium or as an output time  $t_p$  (see., Nagai, abstract, claim 7). Accordingly, it would have been obvious to a person of ordinary skill in the art the time the invention was made to modify the rights management of Stefik by including the limitation detailed above as taught by Nagai because this would control the time duration of the medium for recording.

Furthermore, Applicant argues that Nagai's external factor is not an external medium such as a **removably inserted memory card**. However, this limitation is nowhere to be found in claim 1, and therefore Applicant's argument is moot.

b. Applicant further argues that as illustrated in fig 8, one example of what is claimed in claim 1, output of the object data A is suspended and erased if the output time reaches upper limit time. Claim 1 does not recite this limitation, specifically wherein said **the object data is suspended and erased**. Therefore, Applicant's argument is moot.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00. patents and hoteling.

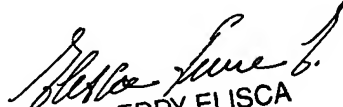
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571 272 6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

November 27, 2007

  
PIERRE EDDY ELISCA  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600